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Office of Public School Construction Application Number: \_\_\_\_\_

**GENERAL INFORMATION**

Grantee Name: \_\_\_\_\_

School Name: \_\_\_\_\_

Grant Amount: \_\_\_\_\_ of which \_\_\_\_\_ is Financial Hardship Assistance.

Authority: Statutes of 2018, Chapter 32, Sec. 21. (AB 1808) Education Code section 17375.

Full-Day Kindergarten Facilities Grant Program (FDKFGP)

**PROJECT DESCRIPTION**

Type of Work: \_\_\_\_\_ (e.g., New Construction or Retrofit)

Number of Classrooms: \_\_\_\_\_

Financial Hardship Approval Date: \_\_\_\_\_

Financial Hardship Status is valid until: \_\_\_\_\_ (date)

Agreement includes Grants for: \_\_\_\_\_ (Site Acquisition; Department of Toxic Substances Control fees and hazardous waste removal; etc.)

Agreement includes Grants for: \_\_\_\_\_ (Site Development, if appropriate)

This project scope and resulting funding determination relied on the following documentation and state agency approvals:

- *Application for Funding* (Form SAB 70-01), executed by the District Representative on XXXXX
- Preliminary/Final Site Approval letter from the California Department of Education dated XXXXX
- Preliminary/Final Plan Approval letter from the California Department of Education dated XXXXX
- Division of the State Architect Approval letter(s) dated XXXXX for DSA Application Number(s) YYYY.
- Financial Hardship Approval Letter from the Office of Public School Construction dated XXXXX
- Bridge Financing Approval Letter from the Office of Public School Construction dated XXXXX

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A copy of the documentation listed here is available as part of the project file maintained by OPSC, and is also retained by the District for purposes of the project audit.

Grants are to be used in accordance with the provisions contained in the Full-Day Kindergarten Facility Grant Program (Education Code, Title 1, Division 1, Part 10.5, Chapter 3, commencing with Section 17375 and this Agreement.

The Grantee shall not make any change to the Project that would require a Change of Scope, without the State Allocation Board first approving the change to the Project.

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## **TERMS AND CONDITIONS OF GRANT**

### **A. Definitions**

Terms not defined below shall have the same meaning as set forth in FDKFGP Regulation (Regulation) Section 1860.2.

"Agreement" means a contract to do or not to do a certain thing and refers to this Grant Agreement.

"Audit report" means the annual compliance reviews and fiscal reviews of the Grantee's finances, in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

"Capital Outlay," for the purposes of the Grantee using Savings, pursuant to Full-Day Kindergarten Facilities Grant Program Regulation Section 1860.19, means capital assets in accordance with Section G of this Agreement.

"Change of Scope" means the addition or deletion of any work that would change the approved Grant amount for the Project or require updated state agency approval(s). This includes, but is not limited to, changes to site acquisition acres, or buildings, including full-day kindergarten classrooms, and any changes to the size of those buildings, the type of building (e.g. portable, modular, or permanent), or the location on the school site of those buildings.

"Expenditure Report" means the Form SAB 70-03 *Expenditure Report* and all required supplementary documentation, including but not limited to a detailed listing of project expenditures organized by fund source and provided at an object-code-level of accounting detail, pursuant to the California School Accounting Manual, that shall include fields to identify information including, but not limited to dates, payees, warrant numbers, and the description and purpose of the expenditures as described in Regulation Section 1860.18.

"Application for Funding" means the Form SAB 70-01, *Application for Funding*, and all required supplementary documentation pursuant to the Program and Regulation Section 1860.7

"Fund Release Authorization" means the Form SAB 70-02, *Fund Release Authorization*, and all required supplementary documentation, which includes but is not limited to this Agreement, pursuant to the Program and the Regulations.

"Grants" means all eligible program grants provided by the Board to the Grantee in this Agreement.

"Grantee" means the School District (as defined in Regulation Section 1860.2 whose representative has signed this Agreement for Grants.

"Grantee Representative" means the authorized representative of a School District (as defined in Regulation Section 1860.2 who signed this Agreement for Grants.

"Ineligible Expenditure" means an expenditure of Grants not in accordance with this Agreement or the applicable laws and regulations governing the use of Grants.

"Local auditor" means an auditor hired at the Grantee's expense who conducts annual compliance reviews and fiscal reviews of the Grantee's finances, in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

"Other Sources of Funds" means cash, the Grantee's matching funds, or in-kind contributions that are required or used to complete the project beyond the Grants provided by this Agreement.

"Project" means the purposes for which the Grantee has applied for the Grants detailed in this Agreement.

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“Regulations” means the Full-Day Kindergarten Facilities Grant Program regulations (California Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 4, Group 1, Subgroup 5.8, commencing with Regulation Section 1860).

“Savings” means Grants not used by the Grantee for the Project, pursuant to Regulation Section 1860.19, achieved by the Grantee’s efficient and prudent expenditure of Grants.

(Authority: Regulation Section 1860.2)

## **B. Term of Grant Agreement**

The Grantee and the Executive Officer, or designee, of the Office of Public School Construction shall be the parties to this Agreement. This Agreement must be entered into by both parties prior to, and as a condition of, the release of any funding for the Project. This Agreement becomes effective on the date the Board approves the Project for Apportionment. This Agreement terminates once (1) all Grants and the Grantee’s matching funds, including interest generated by the Grants, is expended, and when all of the Parties’ obligations under this Grant Agreement are fully satisfied, or (2) if the Board rescinds the Apportionment, or (3) if the Grantee withdraws its Application for Funding.

## **C. Project Execution**

1. The Board hereby awards to the Grantee a sum of money (Grants)  
\$\_\_\_\_\_ in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of the Project in this Agreement and its attachments and under the Terms and Conditions set forth in this Agreement. Grants may also be expended for the purposes of a future high priority Capital Outlay project as the result of Savings, or for the purposes of reimbursement, pursuant to Regulation Section 1860.19.  
(Authority: Education Code Section 17375)
2. Prior to the release of any funding for the Project, Office of Public School Construction staff has completed the following steps to finalize the Project funding amount outlined in this Agreement, as necessary:
  - i. The Application for Funding was accepted on \_\_\_\_\_ (date) and deemed to meet the definition of an Approved Application. The Grantee was provided written notification of any deficiencies and given 24 hours to remedy the identified deficiency(s) in order to retain the date upon which it was received.
  - ii. Upon confirmation of an Approved Application, Office of Public School Construction staff reviewed the Application for Funding for compliance with Full-Day Kindergarten Facilities Grant Program Regulations and verified eligibility for all available program grants. The Grantee was provided written notification of all deficiencies and/or changes necessary and given 15 calendar days to respond and remedy the identified deficiencies and/or changes necessary.

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- iii. Upon review of the submitted corrections, Office of Public School Construction staff provided the Grantee written notification of any final deficiencies and required a response within four business days.
  - iv. Upon receipt of the final amendments to the Application for Funding, the Office of Public School Construction staff and the Grantee agreed that the Project was ready for presentation to the Board for Apportionment.  
*(Authority: Regulation Sections 1860.7, 1860.16 and Office of Public School Construction process)*
3. Grantee certifies that the Project complies with all laws and regulations applicable to the Project.  
*(Authority: Form SAB 70-01 certifications)*
4. Grantee certifies that the Project complies with all labor and public contract laws, as applicable, including, but not limited to:
- i. Public Contract Code Section 20111.6, as added by Chapter 808, Statutes of 2012 (Assembly Bill 1565), which became effective on September 30, 2012. This section was amended by Senate Bill 1171, Chapter 86, Statutes of 2016. Beginning January 1, 2014 through December 31, 2018, new contracting requirements are effective for School Districts with an average daily attendance of 2,500 or more for construction projects with estimated expenditures of at least \$1,000,000 that will be funded through any future state school bonds. These new Public Contract Code requirements require a standardized prequalification questionnaire and financial statement to be verified under oath from all bidders.
  - ii. Labor Code Section 1773.3, as amended by Senate Bill 877, Chapter 455, Statutes of 2018, which requires school districts to provide notice to Department of Industrial Relations of any public works contract subject to the requirements of that chapter, within 30 days of the award, but in no event later than the first day in which a contractor has workers employed upon the public work.

Project Execution Signature

All laws and regulations noted in Sections (i), and (ii) above have been, and will be, followed, as applicable.

X \_\_\_\_\_ Date \_\_\_\_\_

*(Authority: Form SAB 70-01 certifications)*

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#### **D. Receiving Board Approval**

1. Grantee must have (1) title or (2) other interest to Project lands. Title may include an order for pre-judgement possession issued by a court in an eminent domain proceeding.  
*(Authority: Education Code Section 17375; Regulation Section 1860.8)*
2. Grantee understands and agrees that the Grants, combined with local funds, shall be sufficient to complete the Project.  
*(Authority: Education Code Section 17375)*
3. The Grantee understands and agrees that (1) Grants required to be adjusted for site acquisition for New Construction projects, and (2) unspent Financial Hardship Grants must be returned to the state school facilities fund from which the Grants were apportioned as a result of an audit, pursuant to Education Code Section 17375 and Education Code Section 41024, as applicable.
4. The Grantee understands and agrees that, if it does not remit the amount of Ineligible Expenditures identified in the audit report within 120 days of being invoiced by the California Department of Education, and if no repayment plan has been approved pursuant to paragraph (d) of Section 41024 of the Education Code, then the Controller shall deduct the total amount of any Ineligible Expenditures from apportionments pursuant to paragraph (d) of Section 41024 of the Education Code. The Grantee may request a payment plan pursuant to paragraph (d) of Section 41024 of the Education Code.
5. The statutorily-required Grantee matching funds have either been expended by the Grantee, have been deposited by the Grantee in the county fund, or will be expended by the Grantee prior to notice of completion of the project.  
*(Authority: Education Code Sections 17375(b)(3); Regulation Sections 1860.11 and 1860.13; and Form SAB 70-01 certifications)*
6. Financial Hardship Review Process
  - i. If the Grantee has requested Financial Hardship Grants, the Financial Hardship approval from the Office of Public School Construction was valid.  
*[Authority: Regulation Section 1860.14]*
  - ii.
    - a) If the Grantee has requested Financial Hardship Grants and has a bridge financing debt instrument in place, or will have a bridge financing debt instrument in place in the future in order to move the Project forward until Grants become available, then the Grantee agrees that it has received, or will receive, bridge-financing approval from the Office of Public School Construction.
    - b) The Grantee also agrees to retire all bridge financing debt within 60 calendar days of receiving Grants. Failure to retire all bridge financing debt within 60

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calendar days of receiving Grants will result in the amount of the Financial Hardship Grants in this Agreement being reduced by the amount of the bridge financing that was not retired.

7. [Instructions: The following sections only apply to the Program, or other circumstance, that is detailed in this Agreement.]

*New Construction:*

i. The Grantee has received approval of the plans from the California Department of Education and the Division of the State Architect, and approval of the site from the California Department of Education if the project included site acquisition. Plan approval is not required if request is for design or site advances. Site approval is not required if request is for design or site other two percent advances.

(Authority: Regulation Sections 1860.7, and 1860.10.1)

*Site Acquisition:* The Grantee has complied with Regulation Sections 1860.10 through 1860.10.3, as appropriate. The Grantee shall provide all applicable county assessor parcel numbers for the land being acquired for the Project. Grantee understands and agrees that Grants for site acquisition (i.e. site purchase, hazardous materials mitigation, relocation, etc.) as described in Section F (Accounting for Spent Funds) of this Agreement are limited to actual eligible expenditures. Therefore, the audit report may result in an adjustment (increase or decrease, if funds are available) to the Grant amount based on the final approved expenditures related to site acquisition separate and apart from all other Grants.

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### **E. Receiving an Apportionment and Receiving Funds**

The Grantee and the Executive Officer, or designee, of the Office of Public School Construction shall enter into this Agreement prior to, and as a condition of, the release of any funding for the Project.

*(Authority: Regulation Sections 1860.7 and 1860.16)*

Additionally:

1. Any Grants provided to Grantee under this Agreement will be disbursed upon receipt of a complete Fund Release Authorization, unless for design or site other two percent advance funding, and shall not exceed \$\_\_\_\_\_.  
except for \_\_\_\_\_.  
(site-related exceptions)  
*(Authority: Education Code Section 17375(c)(1) and (2), Regulation Sections 1860.16 and Form SAB 70-02)*
2. Supplementary documentation submitted with, or prior to, a Fund Release Authorization must include this Agreement as well as documentation, including but not limited to, that proves the Grantee has entered into a binding contract(s) for the completion of the project included in the plans and specification applicable to this Project.  
*(Authority: Education Code Section 17375(c)(1) and (2), Form SAB 70-02 certifications)*
3. If the Office of Public School Construction finds that the Fund Release Authorization is incomplete, inadequate or inaccurate, it will notify the Grantee that the Grantee has ten (10) business days to address the issue(s). If the issue(s) has not been addressed after ten (10) business days, the Office of Public School Construction will consider the submittal to be invalid and the request will be returned to the Grantee. The Grantee will retain the opportunity to submit a valid Fund Release Authorization within 180 days of Apportionment if the Project had Division of the State Architect Approval at the time of Apportionment and 12 months from Apportionment if the Project did not have Division of the State Architect approval at the time of Apportionment. However, if the Grantee does not submit a valid Fund Release Authorization by the applicable deadline, the Apportionment shall be rescinded by the Board.  
*(Authority: Education Code Section 17375(c)(1) and (2), Regulation Section 1860.16)*

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## **F. Accounting for Spent Funds**

1. For purposes of completing the Expenditure Report required pursuant to Education Code Section 17375, at the completion of the Project, the Grantee shall maintain a general ledger at a Project-specific level that includes fund, resource, project year, goal, function, and object codes for all expenditures for the Project, including furniture and equipment, as they are described in the *California School Accounting Manual, Procedure 301: Overview of the Standardized Accounting Code Structure and Procedure 345: Illustrations Using Account Code Structure*.  
(Authority: Education Code Section 17375(f), Regulation Sections 1860.18, Form SAB 70-03)

2. Project Audit

The Grantee understands and agrees to the following:

- i. Upon Project completion pursuant to Regulation Section 1860.20, the Office of Public School Construction may notify the Grantee, the Grantee's County Office of Education, and the State Controller's Office that the Grantee is subject to an audit of the Project by a local auditor that is in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting. The Grantee shall retain all financial accounts, documents, and records necessary for an audit pursuant to Education Code Section 41024(a)(4) and shall provide Project documentation, if requested by the local auditor.  
(Authority: Regulation Section 1860.20)
- ii. Project documentation that the Grantee shall provide when requested by the local auditor, for the purposes of the audits described in Education Code Section 41024, shall include, but is not limited to:
  - a) Proof of acreage purchased
  - b) Proof of site costs and adjusted site grants, where applicable
  - c) Copy of Form SAB 70-01
  - d) Copy of SAB Board item(s) (Approval of project Apportionment)
  - e) DSA Approval Letter, if for New Construction Grant or Retrofit Grant Apportionment
  - f) Preliminary or Final CDE Approval Letter, as applicable
  - g) Architect Final Billing
  - h) Proof of Routine Restricted Maintenance Account
    - i) Project-specific accounting records, such as a general ledger, as described in Spending Funds (Section F, paragraph 1), for all sources of funding
  - j) Final construction billing and invoices,
  - k) Any and all change orders
  - l) Proof the School District implemented full-day kindergarten
  - m) If the Grantee's matching funds have already been expended for this Project or have been deposited in the County School Facility Fund, the Grantee shall provide accounting records, such as a general ledger, for all sources of funding,

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verifying those previous expenditures or deposits. If the matching funds have been or will be spent from a Certificate of Participation (COP), then the Grantee shall indicate the fund that the proceeds from the COP were originally deposited into or will be deposited into. The Grantee shall also include a copy of the COP booklet. Providing the official notice of intent to sell bonds may be provided to prove that the Grantee will expend the Grants prior to the time the project is completed, as described complete pursuant to Regulation Section 1860.16. If the Grantee has funds from another source not listed here, the Grantee shall provide the accounting records, such as a general ledger verifying the expenditures and deposits.

*(Authority: Education Code Section 17375 and Regulation Section 1860.16)*

- iii. During the local auditor's audit and/or upon completion of the audit report, the Grantee understands and agrees that its Expenditure Report is final and may not be subsequently adjusted or amended.
- iv. The Grantee understands and agrees that:
  - (a) Should the audit report determine that the Grantee spent Grants on Ineligible Expenditures, the local auditor will inform the California Department of Education of the amount of the Ineligible Expenditure. The amount to be remitted will be limited to the proportionate percentage of Grants and Financial Hardship Grants. Grantees will not be required to provide the state with payments related to the amount of their matching funds. Ineligible Expenditures funded by Grants will not be considered Savings.
  - (b) The Grantee may appeal the finding of any Ineligible Expenditures, as described in Education Code Section 41024(d).
  - (c) The California Department of Education will recover Grants spent on Ineligible Expenditures, pursuant to Education Code Section 41024(d)(1).
  - (d) The Grantee may request a repayment plan from the California Department of Education related to the recovery of Grants described in (c).
  - (e) In order to recover funds as part of a repayment plan described in (d), the California Department of Education will notify the State Controller of the repayment plan and the State Controller will withhold funds from the Grantee's principal apportionment or Education Protection Account payments, pursuant to Education Code Section 41024(d).

*(Authority: Education Code Sections 17375(f) and 41024; Regulation Section 1860.20)*
- v. The Grantee shall provide its Expenditure Report for a Project deemed complete pursuant to Regulation Section 1860.18, and any and all audit reports, including the audits of Savings, to the Office of Public School Construction.

*(Authority: Education Code Section 17375(h))*

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- vi. The Grantee shall also provide site access to the local auditor to determine if the project work is in accordance with the Board-approved project scope, including a final inspection for a Project deemed complete pursuant to Regulation Section 1860.18.

*(Authority: Education Code Section 17375(h),)*

### 3. Savings Audit(s)

Grantees may retain Savings for expenditure for other high priority capital outlay with the exception of when unexpended funds remain on project that received Financial Hardship funding. Savings must be spent within one year of the completion of the project.

*(Authority: Education Code Section 17375 and Regulation Section 1860.19)*

The Grantee understands and agrees to the following:

- i. Upon the Grantee declaring Savings pursuant to Regulation Section 1860.19, the Office of Public School Construction may notify the Grantee, the Grantee's County Office of Education, and the State Controller's Office, that the Grantee is subject to annual audits of the Savings by a local auditor that is in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting until the Grantee has expended all Savings. The Grantee shall retain all financial accounts, documents, and records necessary for an audit pursuant to Education Code Section 41024(a)(4) and shall provide documentation related to the use of Savings, when requested by the local auditor.

*(Authority: Education Code Section 41024 and Regulation Section 1860.19)*

- ii. Savings documentation that the Grantee shall provide when requested by the local auditor, for the purposes of the audits described in Education Code Section 41024, shall include, but is not limited to:

- a) The Grantee's expenditure report with actual savings submitted to the Office of Public School Construction, and
- b) Project-specific accounting records, such as a general ledger, as described in Spending Funds (Section F, paragraph 1), and
- c) General ledger report verifying that the Savings has been deposited to county school facilities fund and detail verifying the expenditure of the funds for high priority Capital Outlay, and
- d) Construction billing and related invoices.

*(Authority: Education Code Section 17375(h) and Regulation Section 1860.20)*

- iii. The Grantee understands and agrees that its Savings expenditure reports submitted to the local auditor are final and may not be subsequently adjusted or amended.

- iv. The Grantee understands and agrees that:

- (a) Should the audit report determine that the Grantee spent Savings on Ineligible Expenditures, the local auditor will inform the California Department of Education of the amount of the Ineligible Expenditure. The amount to be remitted will be limited to

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the Savings. Grantees will not be required to provide the state with payments related to the amount of their matching funds.

(b) The Grantee may appeal the finding of any Ineligible Expenditures, as described in Education Code Section 41024(d).

(c) The California Department of Education will recover Grants spent on Ineligible Expenditures, pursuant to Education Code Section 41024(d)(1).

(d) The Grantee may request a repayment plan from the California Department of Education related to the recovery of Grants described in (c).

(e) In order to recover funds as part of a repayment plan described in (d), the California Department of Education will notify the State Controller of the repayment plan and the State Controller will withhold funds from the Grantee's principal apportionment or Education Protection Account payments, pursuant to Education Code Section 41024(d).

*(Authority: Education Code Sections 41024 and 17375(h); Regulation Section 1860.20)*

v. The Grantee shall provide its Savings expenditure reports, and any and all audit reports, to the Office of Public School Construction, pursuant to Education Code Section 17375(h).

vi. The Grantee shall also provide site access to the local auditor to determine if the project work is in accordance with eligible uses of Savings.

*(Authority: Education Code Sections 41024 and 17375(h))*

4. Site Adjustments

Should the audit report determine that the amount of Grants received for site acquisition requires adjustment, then, upon receipt of the audit, the Office of Public School Construction will present the Project to the State Allocation Board for an adjustment to the Apportionment, in accordance with Education Code Section 41024 (c)(2). Adjustments resulting in an increase to the amount of funding provided will only be made if funds are available.

*(Authority: Education Code Sections 41024 and 17375(h))*

5. Financial Hardship

Should the audit report determine that there are unspent Financial Hardship Grants, then the Grantee agrees to repay the unspent Financial Hardship Grants pursuant to Education Code Section 41024(c)(2)

*(Authority: Education Code Sections 41024, and 17375(h), and Regulation Section 1860.14)*

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**G. Advisory Listing Detailing Common Eligible Project Expenditures**

Project expenditures not listed in this document will not be considered eligible for funding under the Full-Day Kindergarten Facility Grant Program. \*

Project expenditures will only be considered eligible if:

- The expenditures are within the Project scope that was approved by the State Allocation Board
- The expenditures are substantiated with contracts, invoices, final billings, and verification of payment  
(*Authority: Education Code Section 41024*)
- The expenditures are expended or encumbered prior to the time a project is deemed complete, pursuant to Regulation Section 1860.18  
(*Authority: Education Code Section 17375(f)*)

The Grantee may seek written clarification from OPSC for items not included in the lists of eligible and ineligible project expenditures. The local auditor may use the written response from OPSC to guide the audit of the project expenditures.

\*Project expenditures not listed in the following tables may be considered if those expenditures are reasonable and appropriate site development for the FDKFGP project.  
(*Authority: Regulation Sections 1860.9(d), 1860.12(c), and 1860.12(d)*)

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**1. New Construction – Apportionment with Advance for Design Costs  
 Or Apportionment  
 Common Eligible Project Expenditures**

DESIGN COSTS		
	Type of Expenditure	Authority
a.	Advertising for Construction Bids	Ed. Code Section 17375(f)
b.	Architect's Fee for Plans	
c.	CDE Plan Check or Site Review Fee	
d.	California Environmental Quality Act (CEQA) Associated Costs	Ed. Code Section 17375(f)
e.	Consultant Fees – specific to SFP project(s) (prorate if necessary)	Ed. Code Section 17375(f)*
f.	Division of the State Architect (DSA) Plan Check Fee	Ed. Code Section 17375(f)
g.	Energy Analysis Fee	Ed. Code Section 17375(f)*
h.	Legal Fees associated with: <ul style="list-style-type: none"> <li>The review of the SFP project-related lease agreements.</li> <li>The review of the SFP project-related contracts between districts and contractors, architects, construction managers or engineers.</li> <li>The review of the SFP project-related bid documents and bid responses.</li> </ul>	
i.	Local Agency Plan Check Fees	Ed. Code Section 17375(f)
j.	Preliminary Site Tests	
k.	Engineering Fees	

\*These costs are recognized as components of allowable costs pursuant to EC Section 17375, and may be included as allowable expenditures under the Full-Day Kindergarten Facilities Grant Program.

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**2. New Construction - Apportionment with Advance for Site Acquisition Costs or Apportionment  
 Common Eligible Project Expenditures**

	Type of Expenditure	Authority
Site Acquisition		
a.	Purchase Price of Property – provided site was not previously funded under Lease-Purchase Program or School Facility Program. Eligible purchase expenditure is the lesser of the appraised value (submitted within six months of a complete Form SAB 70-01) or actual site cost.	Ed. Code Section 17375(f)
Site (Other) (4 % Allowance)		
b.	Appraisal Fees	Ed. Code Section 17375(f)
c.	Escrow Fees	
d.	Legal Fees associated with: <ul style="list-style-type: none"> <li>The review of site acquisition documents</li> <li>Site condemnation or relocation proceedings.</li> </ul>	
e.	Litigation costs not to exceed the total FDKFGP project funding Apportionment.	
f.	Preparation of POESA and PEA when required by the Department of Toxic Substances Control.	
g.	Survey Costs	
DTSC Fees		
h.	DTSC Phase One Environmental Site Assessment (POESA) fees, Preliminary Environmental/ Endangerment Assessment (PEA) fees, and Response Action costs paid to the Department of Toxic Substances Control.	Ed. Code Section 17375(f)

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	Type of Expenditure	Authority
Hazardous Waste Removal		
i.	CEQA expenditures as long as they are not for services rendered by district personnel.	Ed. Code Section 17375(f)
j.	Hazardous waste removal costs - only when associated with a Department of Toxic Substances Control issued determination of a need for a Remedial Action Plan, Removal Action Work Plan or Supplemental Site Investigation Plan to address necessary cleanup. Including: <ul style="list-style-type: none"><li>Expenses for Remedial Action Plan and/or Removal Action Work Plan if acted upon.</li><li>Expenses for public participation if Remedial Action Plan and/or Removal Action Work Plan acted upon.</li><li>Expenses for Supplemental Site Investigation with a Remedial Action Plan and/or Removal Action Work Plan</li><li>Expenses for Voluntary Cleanup Agreement and/or School Cleanup Agreement</li></ul>	
Relocation Assistance		
k.	Relocation Assistance – as long as expenditures conform to Title 25, CCR, Section 6000. This includes expenditures for the following: <ul style="list-style-type: none"><li>Residential Tenant Occupant Moving expenses Rental Assistance – payment not to exceed \$5,250 Last Resort Housing</li><li>Residential Owner Occupant Moving expenses</li></ul>	Ed. Code Section 17375(f)

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	Type of Expenditure	Authority
	<p>Replacement Housing – Not to exceed \$25,500</p> <ul style="list-style-type: none"> <li>• Business</li> <li>• Moving expenses – In addition, a displaced business owner may file a claim for the following:</li> </ul> <p>The cost directly related to modifying machinery, equipment, or other personal property to adopt it to the new site.            The cost of any license, permit, or certification to reestablish a business at a new location</p> <p>The reasonable cost of any professional services necessary for planning the move, moving the property, or installation of property at the replacement site.</p> <p>When an item is not moved but replaced with a comparable item, reimbursement shall be the lesser of replacement cost or estimated cost of moving by professional mover.</p> <ul style="list-style-type: none"> <li>• Losses of Tangible Personal Property</li> <li>• Searching for a Replacement Site</li> <li>• Re-establishment Expenses</li> <li>• In Lieu Payments - Any displaced person who moves or discontinues their business may elect to receive a fixed relocation payment :in lieu” of moving, losses of tangible property, searching, and reestablishment costs.</li> </ul>	

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**3. New Construction - Apportionment  
 Common Eligible Project Expenditures**

CONSTRUCTION COSTS		
	Type of Expenditure	Authority
a.	Construction Management Fees	Ed. Code Section 17375(f)
b.	Building Construction Costs – Including: <ul style="list-style-type: none"> <li>• Foundations</li> <li>• Structures</li> <li>• Exterior &amp; Interior Finishes</li> <li>• Fittings &amp; Fixtures</li> <li>• Plumbing</li> <li>• Electrical</li> <li>• Mechanical</li> <li>• Shade Structures</li> <li>• </li> </ul>	
c.	Construction Security (Campus Security and administrative overhead – not eligible)	Ed. Code Section 17375(f)*
d.	Construction Tests	Ed. Code Section 17375(f)
e.	Costs incurred to initiate, enforce and maintain a LCP, which may include School District “third party providers” costs, district’s own Force Account labor costs, or construction manager costs.	Labor Code Section 1771.1(a) & (b)
f.	Force Account Labor – complies with the Public Contract Code and is specific to the project, adhering to the following criteria outlined in Section 20114: <ul style="list-style-type: none"> <li>• For School Districts with an average daily attendance less than 35,000, the total number of hours on the job does not exceed 350 hours</li> <li>• For School Districts with an average daily attendance of 35,000 or greater, the total number of hours on the job does not</li> </ul>	PCC Section 20114

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	<p>exceed 750 hours or when the cost of material does not exceed \$21,000.</p> <ul style="list-style-type: none"> <li>• Must be work that involves a skilled trade.</li> </ul> <p>To be eligible must be supported by time cards or time logs.</p>	
g.**	<p>General site development within school property lines necessary for the FDKFGP project (Including but not limited to):</p> <ul style="list-style-type: none"> <li>• Finish Grading</li> <li>• Roads and Driveways</li> <li>• Sidewalks, stairs, &amp; Ramps</li> <li>• Parking Area</li> <li>• Curbs and Gutters</li> <li>• Turfed/Paved Play Area</li> <li>• Playground Equipment</li> <li>• Surface Drains &amp; Play Area</li> <li>• V-Gutters at Parking Lot</li> <li>• Landscaping &amp; Irrigation System</li> <li>• Site Lighting</li> <li>• Fencing &amp; Outdoor Walls</li> </ul>	Ed. Code Section 17375(f)
h.	Inspections – For services provided during construction of project.	Ed. Code Section 17375(f)
i.**	<p>Off-site development costs on up to two immediately adjacent sides of the site necessary for the FDKFGP project, including:</p> <ul style="list-style-type: none"> <li>• Curbs &amp; Gutters</li> <li>• Sidewalks</li> <li>• Street Light, Planting Areas, Street Signs, Traffic Signals, Etc., Mandated by Local Ordinances</li> <li>• Special District Fees</li> <li>• Storm Drains to Point of Connection</li> <li>• Safety Paths</li> </ul>	Ed. Code Section 17375(f)

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
j.**	<p>Service site development costs within school property lines necessary for the FDKFGP project, including:</p> <ul style="list-style-type: none"> <li>• Site Clearance</li> <li>• Demolition</li> <li>• Rerouting Utility Lines</li> <li>• Rough Grading</li> <li>• Soil Compaction</li> <li>• Storm Drains</li> <li>• Erosion Control</li> <li>• Outside Stairs &amp; Retaining Walls</li> <li>• Relocation of Existing Portables</li> <li>• Fire Code Requirements</li> <li>• Multi-Level Parking</li> </ul>	Ed. Code Section 17375(f)
k.**	<p>Utility service costs associated with the CDE approved site size that are necessary to serve the FDKFGP capacity of the site as follows:</p> <ul style="list-style-type: none"> <li>• Water</li> <li>• Sewage</li> <li>• Gas</li> <li>• Electric</li> <li>• Communication systems</li> </ul>	Ed. Code Section 17375(f)
l.	<p>Furniture and Equipment that meet all of the criteria as described in Government Code Section 16727 and the California School Accounting Manual (CSAM), Procedure 770 as follows:</p> <ul style="list-style-type: none"> <li>• Lasts more than two years.</li> <li>• It is typically repaired rather than replaced.</li> <li>• It is an independent unit (rather than being incorporated into another unit item).</li> <li>• The cost of tagging and inventory is a small percentage of the item cost.</li> <li>• Not operational or administrative costs.</li> </ul>	Ed. Code Section 17375(f) & CSAM Procedure 770

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	<p>It exceeds the minimum dollar value of capitalization threshold established by the local educational agency, but in no case should the threshold be less than \$5,000. The following types of furniture and equipment are examples that would be eligible if they met the criteria for CSAM Procedure 770:</p> <ul style="list-style-type: none"> <li>• Projectors</li> <li>• Smart Boards</li> <li>• Freezers</li> <li>• Refrigerators</li> <li>• Stoves</li> <li>• Exercise equipment – Only if available for use by all students</li> </ul>	
m.	<p>Furniture and Equipment:</p> <ul style="list-style-type: none"> <li>• Desks</li> <li>• Chairs</li> <li>• Built-in Storage</li> <li>• Cabinets</li> <li>• Window Coverings</li> <li>• White/Chalk Boards</li> <li>• Library Books</li> </ul>	Ed. Code Section 17375(f)
n.	Demolition Costs	Ed. Code Section 17375(f)
o.	Interim Housing – only eligible if new construction additions are to an existing site where classrooms temporarily are inaccessible or unsafe to house students during construction.	Ed. Code Section 17375(f)*
p.	Acquiring an existing government-owned or privately owned building, or privately financed school building, and the necessary costs of converting the government-owned or privately-owned building for public school use.	Ed. Code Section 17375(f)

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
q.	Upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.	Ed. Code Section 17375(f)

\*These costs are recognized as components of allowable costs pursuant to EC Section 17375, and may be included as allowable expenditures under the Full-Day Kindergarten Facilities Grant Program.

\*\*Eligible expenditures in these sections may exceed the amounts requested on the Application for Funding.

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**4. Retrofit - Apportionment with Advance for Design Costs  
 Or Apportionment  
 Common Eligible Project Expenditures**

DESIGN COSTS		
	Type of Expenditure	Authority
a.	Advertising for Construction Bids	Ed Code Section 17375(f)
b.	Architect's Fee for Plans	
c.	CDE Plan Check Fee	
d.	California Environmental Quality Act (CEQA) Associated Costs	Ed. Code Section 17375(f)
e.	Consultant Fees – specific to FDKFGP project(s) (prorate if necessary)	Ed Code Section 17375(f)*
f.	Division of the State Architect (DSA) Plan Check Fee	Ed Code Section 17375(f)
g.	Energy Analysis Fee	Ed Code Section 17375(f)*
h.	Legal Fees associated with: <ul style="list-style-type: none"> <li>The review of the FDKFGP project-related lease agreements.</li> <li>The review of the FDKFGP project-related contracts between districts and contractors, architects, construction managers or engineers.</li> <li>The review of the FDKFGP project-related bid documents and bid responses.</li> </ul>	
i.	Local Agency Plan Check Fees	Ed Code Section 17375(f)
j.	Preliminary Site Tests	
k.	Engineering Fees	

\*These costs are recognized as components of allowable costs pursuant to EC Section 17375, and may be included as allowable expenditures under the Full-Day Kindergarten Facilities Grant Program.

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**5. Retrofit- Apportionment  
 Common Eligible Project Expenditures**

CONSTRUCTION COSTS		
	Type of Expenditure	Authority
a.	Construction Management Fees	Ed Code Section 17375(f)
b.	Building Construction Costs – Including: <ul style="list-style-type: none"> <li>• Foundations</li> <li>• Structures</li> <li>• Exterior &amp; Interior Finishes</li> <li>• Fittings &amp; Fixtures</li> <li>• Plumbing</li> <li>• Electrical</li> <li>• Mechanical</li> <li>• Shade Structures</li> <li>•</li> </ul>	
c.	Construction Security (Campus Security not eligible and administrative overhead not eligible)	Ed Code Section 17375(f)
d.	Construction Tests	Ed Code Section 17375(f)
e.	Force Account Labor – complies with the Public Contract Code and is specific to the project, adhering to the following criteria outlined in Section 20114: <ul style="list-style-type: none"> <li>• For School Districts with an average daily attendance less than 35,000, the total number of hours on the job does not exceed 350 hours</li> <li>• For School Districts with an average daily attendance of 35,000 or greater, the total number of hours on the job does not exceed 750 hours or when the cost of material does not exceed \$21,000.</li> <li>• Must be work that involves a skilled trade.</li> </ul> <p>To be eligible must be supported by time cards or time logs.</p>	PCC Section 20114

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
f.	Inspections – For services provided during construction of the project.	Ed Code Section 17375(f)
g.*	Utility Services – Only if approved for fifty years or older permanent building Retrofit project	Ed Code Section 17375(f)
h.	<p>Furniture and Equipment that meet all of the criteria as described in the California School Accounting Manual (CSAM), Procedure 770 as follows:</p> <ul style="list-style-type: none"> <li>• Lasts more than one year.</li> <li>• It is typically repaired rather than replaced.</li> <li>• It is an independent unit (rather than being incorporated into another unit item).</li> <li>• The cost of tagging and inventory is a small percentage of the item cost.</li> <li>• Not operational or administrative costs.</li> </ul> <p>It exceeds the minimum dollar value of capitalization threshold established by the local educational agency. The following types of furniture and equipment are examples that would be eligible if they met the criteria for CSAM Procedure 770:</p> <ul style="list-style-type: none"> <li>• Projectors</li> <li>• Smart Boards</li> <li>• Freezers</li> <li>• Refrigerators</li> <li>• Stoves</li> <li>• Exercise equipment – Only if available for use by all students</li> </ul>	Ed Code Section 17375(f) & CSAM Procedure 770
i.	<p>Furniture and Equipment:</p> <ul style="list-style-type: none"> <li>• Desks</li> <li>• Chairs</li> <li>• Built-in Storage</li> <li>• Cabinets</li> <li>• White/Chalk Boards</li> </ul>	Ed Code Section 17375(f)

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	<ul style="list-style-type: none"> <li>Library Books</li> </ul>	
j.	Demolition Costs – the cost must be attributable to replacement of “like kind” building area .	Ed Code Section 17375(f)
k.	Interim Housing	Ed Code Section 17375(f)
l.	Removal of hazardous waste from a modernization project the DTSC has declared unsafe which does not exceed ten percent of the total modernization Apportionment.	Ed. Code Section 17375(f)
m.*	General site development within school property lines necessary for the FDKFGP project (Including but not limited to): <ul style="list-style-type: none"> <li>Finish Grading</li> <li>Roads and Driveways</li> <li>Sidewalks, stairs, &amp; Ramps</li> <li>Parking Area</li> <li>Curbs and Gutters</li> <li>Turfed/Paved Play Area</li> <li>Playground Equipment</li> <li>Surface Drains &amp; Play Area</li> <li>V-Gutters at Parking Lot</li> <li>Landscaping &amp; Irrigation System</li> <li>Site Lighting</li> <li>Fencing &amp; Outdoor Walls</li> </ul>	Ed Code Section 17375(f)
n.*	Service site development costs within school property lines necessary for the FDKFGP project. Including: <ul style="list-style-type: none"> <li>Site Clearance</li> <li>Demolition</li> <li>Rerouting Utility Lines</li> <li>Rough Grading</li> <li>Soil Compaction</li> <li>Storm Drains</li> <li>Erosion Control</li> </ul>	Ed Code Section 17375(f)

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	<ul style="list-style-type: none"> <li>• Outside Stairs &amp; Retaining Walls</li> <li>• Relocation of Existing Portables</li> <li>• Fire Code Requirements</li> <li>• Multi-Level Parking</li> </ul>	
o.	The purchase and installation of air-conditioning equipment and insulation materials and related costs	Ed Code Section 17375(f)
p.	Cost associated with fire, playground and seismic safety improvements	
q.	Upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology	

\*Eligible expenditures in these sections may exceed the amounts requested on the Application for Funding.

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## **H. Advisory Listing Detailing Common Ineligible Project Expenditures**

The following tables are intended to provide advisory listings of common, but not exhaustive, ineligible Project expenditures.

In addition to the ineligible Project expenditures listed on the following tables, any costs associated with the Grantee's local debt issuance or interest on the Grantee's local bond(s) are also ineligible Project expenditures.

The Grantee may seek written clarification from OPSC for items not included in the lists of eligible and ineligible project expenditures. The local auditor may use the written response from OPSC to guide the audit of the project expenditures.

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**1. New Construction – Apportionment with Advance for Design Costs  
Or Apportionment  
Common Ineligible Project Expenditures**

DESIGN COSTS		
	Type of Ineligible Expenditure	Authority
a.	Legal Fees not attributable to the project	Ed Code Section 17375(f)
b.	For projects that received Design funds only any site and/or construction related expenditures are not eligible	

**2. New Construction – Apportionment with Advance for Site Acquisition Costs OR  
Apportionment  
Common Ineligible Project Expenditures**

SITE ACQUISITION COSTS		
	Type of Expenditure	Authority
a.	Relocation costs not considered reasonable such as: goodwill not court ordered; the difference between the salvage value and new value of furniture and equipment costs, if the business vendor retains the furniture and equipment.	Ed Code Section 17375(f)
b.	For projects that received site funds only (did not receive construction funds) any construction related expenditures are not eligible.	

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**3. New Construction – Apportionment  
 Common Ineligible Project Expenditures**

CONSTRUCTION COSTS		
	Type of Ineligible Expenditure	Authority
a.	Administrative and overhead costs including indirect costs for general management.	Ed Code Section 17375(f)
b.	Campus supervision going beyond construction site security (such as campus security and administrative overhead).	
c.	Repair of damages incurred during construction are not eligible	
e.	Operational costs (such as service contracts and maintenance expenses or commissioning).	
f.	Supplies as described in the California School Accounting Manual (CSAM), Procedure 770.	Ed Code Section 17375(f) & CSAM Procedure 770
g.	Items not considered Furniture and Equipment because they are considered operational or supplies in nature, including: <ul style="list-style-type: none"> <li>• Computers</li> <li>• Printers</li> <li>• Computer Carts</li> <li>• Teacher and student text books.</li> <li>• Athletic Team supplies/training equipment/uniforms.</li> <li>• Classroom supplies/consumables Bunsen Burners, test tubes, chemicals, mechanic wrenches, etc.</li> <li>• Golf Carts</li> <li>• Trailers</li> <li>• Trucks/Tractors and cars</li> <li>• Landscape equipment Mowers, etc.</li> <li>• School maintenance equipment Floor polisher/scrubber, etc.</li> <li>• Cleaning &amp; janitorial supplies</li> </ul>	

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CONSTRUCTION COSTS		
	Type of Ineligible Expenditure	Authority
	<ul style="list-style-type: none"><li>• Band equipment/Uniforms</li><li>• Mascot Uniforms</li></ul>	
h.	Costs associated with housing new kindergarten pupils	Ed Code Section 17375(f)
i.	Acquisition and installation of portables	

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**4. Retrofit – Apportionment with Advance for Design Costs OR  
 Apportionment  
 Common Ineligible Project Expenditures**

DESIGN COSTS		
	Type of Expenditure	Authority
a.	Legal Fees not attributable to the project	Ed Code Section 17375(f)
b.	For projects that received Design funds only any construction related expenditures are not eligible	

**5. Retrofit – Apportionment  
 Common Ineligible Project Expenditures**

	Type of Expenditure	Authority
a.	Administrative and overhead costs including indirect costs for general management.	Ed Code Section 17375(f)
b.	Campus supervision going beyond construction site security (such as campus security and administrative overhead).	
c.	Repair of damages incurred during construction are not eligible	
e.	Operational costs (such as service contracts and maintenance expenses or commissioning).	
f.	Supplies as described in the California School Accounting Manual (CSAM), Procedure 770.	Ed Code Section 17375(f)
g.	Items not considered Furniture and Equipment because they are considered operational or supplies in nature, including: <ul style="list-style-type: none"> <li>• Computers</li> <li>• Printers</li> <li>• Computer Carts</li> <li>• Teacher and student text books.</li> <li>• Athletic Team supplies/training equipment/uniforms.</li> <li>• Classroom supplies/consumables</li> </ul>	

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	Type of Expenditure	Authority
	Bunsen Burners, test tubes, chemicals, mechanic wrenches, etc. <ul style="list-style-type: none"> <li>• Golf Carts</li> <li>• Trailers</li> <li>• Trucks/Tractors and cars</li> <li>• Landscape equipment</li> <li>• Mowers, etc.</li> <li>• School maintenance equipment</li> <li>• Floor polisher/scrubber, etc.</li> <li>• Cleaning &amp; janitorial supplies</li> <li>• Band equipment/Uniforms</li> <li>• Mascot Uniforms</li> </ul>	
h.	Costs for an improvement to extend the useful life of, or to extend the physical environments of, the school	Ed Code Section 17375(f)
i.	The replacement of portable classrooms	
j.	Acquisition and development of real property	
k.	Cost associated with routine maintenance and repair	

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## **I. Record Retention**

Grantee shall maintain satisfactory financial accounts, documents, and records for the Project, at a Project-specific level of detail. Grantee shall also retain such financial accounts, documents, and records necessary for an audit, pursuant to Education Code Section 41024(a)(4).

Financial accounts, documents, and records may be retained electronically.  
(Authority: Government Code Section 12275(a) and (b), and Education Code Section 41024)

## **K. Conflict of Interest**

All Grantees are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, Section 1090 and Public Contract Code, Sections 10410 and 10411, for State conflict of interest requirements.

1. Employees of the Grantee: Employees of the Grantee shall comply with all applicable provisions of law pertaining to conflicts of interest, including, but not limited to any applicable conflict of interest provisions of the California Political Reform Act, Cal. Gov't Code § 87100 et seq.
2. Employees and Consultants to the Grantee: Individuals working on behalf of the Grantee may be required by the Department to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.

## **L. Severability**

If any provision of this Agreement or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

## **M. Disputes**

1. Any claim that the Grantee may have regarding performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Office of Public School Construction. The Office of Public

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School Construction and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.

2. Any claim that the Grantee may have regarding the audit report's project expenditure determination shall be adjudicated by the Education Audit Appeals Panel, consistent with Education Code Section 41344.

#### **N. Electronic Filing**

Any communication under this Grant Agreement shall be in writing and may be transmitted by electronic means. Communication sent electronically will be effective on the date of transmission.

#### **O. Supplement, Not Supplant**

The terms and conditions of this Agreement are intended to supplement, not supplant, the laws and regulations that apply to this Project. The Grantee understands and agrees to adhere to all laws and regulations that apply to this Project, even if those laws and regulations are not specifically cited in this Agreement, consistent with Education Code Section 17375(k).

#### **P. Exact Duplicate**

This Agreement is an exact duplicate (verbatim) of the Agreement provided by the Office of Public School Construction. In the event a conflict should exist, the language in the Agreement provided by the Office of Public School Construction will prevail.

#### **SIGNATURES**

**The statements set forth in this Agreement are true and correct to the best of my knowledge and belief. IN WITNESS WHEREOF, this Agreement has been executed by the parties.**

NAME OF GRANTEE REPRESENTATIVE (PRINT)	PHONE NUMBER
SIGNATURE OF GRANTEE REPRESENTATIVE	DATE
SIGNATURE OF EXECUTIVE OFFICER OF THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION, OR DESIGNEE	DATE